

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

Your Committee on Public Policy and Veterans Affairs, to which was referred Senate Bill 626, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 gaming.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 4-33-2-11.6 IS ADDED TO THE INDIANA
- 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 8 [EFFECTIVE JULY 1, 2005]: Sec. 11.6. "Law enforcement agency"
- 9 means any of the following:
- 10 (1) The gaming agents of the Indiana gaming commission.
- 11 (2) The state police department.
- 12 (3) The conservation officers of the department of natural
- 13 resources.
- 14 (4) The state excise police of the alcohol and tobacco
- 15 commission.

SECTION 2. IC 4-33-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission consists of seven (7) members appointed by the governor.

(b) Each member of the commission must:

(1) be a resident of Indiana; and

(2) have a reasonable knowledge of the practice, procedures, and principles of gambling operations.

(c) At least one (1) member of the commission must be experienced in law enforcement and criminal investigation.

(d) At least one (1) member of the commission must be a certified public accountant experienced in accounting and auditing.

(e) At least one (1) member of the commission must be an attorney admitted to the practice of law in Indiana.

(f) ~~Three (3) members~~ **One (1) member** of the commission must be ~~residents a resident~~ of a county described in IC 4-33-1-1(1).

(g) ~~Three (3) members~~ **One (1) member** of the commission must be ~~residents a resident~~ of a county described in IC 4-33-1-1(2).

~~(h) One (1) member of the commission must be a resident of a county not described in IC 4-33-1-1(1) or IC 4-33-1-1(2).~~

~~(i) (h)~~ Not more than four (4) members may be affiliated with the same political party.

~~(j) The governor shall appoint each of the initial members of the commission not later than September 1, 1993.~~

SECTION 3. IC 4-33-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

1 (6) Deposit the penalties in the state gaming fund established by
2 IC 4-33-13.

3 (7) Be present through the commission's ~~inspectors and~~ **gaming**
4 agents during the time gambling operations are conducted on a
5 riverboat to do the following:

6 (A) Certify the revenue received by a riverboat.

7 (B) Receive complaints from the public.

8 (C) Conduct other investigations into the conduct of the
9 gambling games and the maintenance of the equipment that the
10 commission considers necessary and proper.

11 (8) Adopt emergency rules under IC 4-22-2-37.1 if the
12 commission determines that:

13 (A) the need for a rule is so immediate and substantial that
14 rulemaking procedures under IC 4-22-2-13 through
15 IC 4-22-2-36 are inadequate to address the need; and

16 (B) an emergency rule is likely to address the need.

17 (9) Adopt rules to establish and implement a voluntary exclusion
18 program that meets the requirements of subsection (c).

19 (b) The commission shall begin rulemaking procedures under
20 IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted
21 under subsection (a)(8) not later than thirty (30) days after the adoption
22 of the emergency rule under subsection (a)(8).

23 (c) Rules adopted under subsection (a)(9) must provide the
24 following:

25 (1) Except as provided by rule of the commission, a person who
26 participates in the voluntary exclusion program agrees to refrain
27 from entering a riverboat or other facility under the jurisdiction of
28 the commission.

29 (2) That the name of a person participating in the program will be
30 included on a list of persons excluded from all facilities under the
31 jurisdiction of the commission.

32 (3) Except as provided by rule of the commission, a person who
33 participates in the voluntary exclusion program may not petition
34 the commission for readmittance to a facility under the jurisdiction
35 of the commission.

36 (4) That the list of patrons entering the voluntary exclusion
37 program and the personal information of the participants are
38 confidential and may only be disseminated by the commission to

the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.

(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 4. IC 4-33-4-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. The commission ~~may~~ **shall** employ or contract for inspectors and gaming agents ~~required under section 3(7) to perform the duties imposed by~~ of this chapter. The licensed owners and operating agents shall, in the manner prescribed by the rules of the commission, reimburse the commission for:

- (1) the training expenses incurred to train gaming agents;**
- (2) the salaries and other expenses of staff required to support the gaming agents; and**
- (3) the salaries and other expenses of the ~~inspectors and gaming~~ agents required to be present during the time gambling operations are conducted on a riverboat.**

SECTION 5. IC 4-33-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. **(a)** The state police department ~~shall~~ **may** assist the commission in conducting background investigations of applicants. The commission may forward all fingerprints required to be submitted by license applicants under IC 4-33 to the Federal Bureau of Investigation or any other agency for the purpose of screening applicants. The commission shall reimburse the state police department for the costs incurred by the state police department as a result of the assistance. The commission shall make the payment from fees collected from applicants.

(b) The commission through its gaming agents shall conduct background investigations of applicants. Costs incurred conducting

1 the investigations must be paid from fees collected from applicants.

2 SECTION 6. IC 4-33-4.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2005]:

5 **Chapter 4.5. Gaming Commission Gaming Agents**

6 **Sec. 1. (a) A gaming agent is vested with full police powers and**
7 **duties to enforce this article.**

8 **(b) A gaming agent may issue a summons for an infraction or a**
9 **misdemeanor violation if the defendant promises to appear by**
10 **signing the summons. A defendant who signs a summons issued**
11 **under this subsection but fails to appear is subject to the penalties**
12 **provided by IC 35-44-3-6.5. Upon the defendant's failure to appear,**
13 **the court shall issue a warrant for the arrest of the defendant.**

14 **(c) In addition to the powers and duties vested under subsection**
15 **(a), a gaming agent may act as an officer for the arrest of offenders**
16 **who violate the laws of Indiana if the gaming agent reasonably**
17 **believes that a crime has been, is being, or is about to be committed**
18 **or attempted in the gaming agent's presence.**

19 **Sec. 2. Each gaming agent shall execute a surety bond in the**
20 **amount of one thousand dollars (\$1,000), with surety approved by**
21 **the commission, and an oath of office, both of which must be filed**
22 **with the executive director.**

23 **Sec. 3. (a) The injury to, injury to the health of, or death of a**
24 **gaming agent is compensable under the appropriate provisions of**
25 **IC 22-3-2 through IC 22-3-7 if the injury, injury to the health of, or**
26 **death arises out of and in the course of the performance of the**
27 **agent's duties as a gaming agent.**

28 **(b) For purposes of subsection (a) and IC 22-3-2 through**
29 **IC 22-3-7, a gaming agent is conclusively presumed to have**
30 **accepted the compensation provisions included in the parts of the**
31 **Indiana Code referred to in this subsection.**

32 **Sec. 4. An eligible gaming agent who retires with at least twenty**
33 **(20) years of service as a gaming agent:**

- 34 **(1) may retain the agent's service weapon;**
35 **(2) may receive, in recognition of the agent's service to the**
36 **commission and to the public, a badge that indicates that the**
37 **agent is retired; and**
38 **(3) shall be issued by the commission an identification card**

1 **stating the agent's name and rank, signifying that the agent is**
 2 **retired, and noting the agent's authority to retain the service**
 3 **weapon.**

4 **Sec. 5. The commission shall create a matrix for salary ranges**
 5 **for gaming agents, which must be reviewed and approved by the**
 6 **budget agency before implementation."**

7 Page 1, line 8, delete "issued by the" and insert "**with marine**
 8 **structural and life safety standards determined by the commission;**
 9 and".

10 Page 1, delete lines 9 through 11.

11 Page 1, after line 17, begin a new paragraph and insert:

12 "SECTION 8. IC 5-2-1-9, AS AMENDED BY P.L.62-2004,
 13 SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40,
 14 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in
 16 accordance with IC 4-22-2 all necessary rules to carry out the
 17 provisions of this chapter. Such rules, which shall be adopted only after
 18 necessary and proper investigation and inquiry by the board, shall
 19 include the establishment of the following:

20 (1) Minimum standards of physical, educational, mental, and
 21 moral fitness which shall govern the acceptance of any person for
 22 training by any law enforcement training school or academy
 23 meeting or exceeding the minimum standards established pursuant
 24 to this chapter.

25 (2) Minimum standards for law enforcement training schools
 26 administered by towns, cities, counties, the northwest Indiana law
 27 enforcement training center, agencies, or departments of the state.

28 (3) Minimum standards for courses of study, attendance
 29 requirements, equipment, and facilities for approved town, city,
 30 county, and state law enforcement officer, police reserve officer,
 31 and conservation reserve officer training schools.

32 (4) Minimum standards for a course of study on cultural diversity
 33 awareness that must be required for each person accepted for
 34 training at a law enforcement training school or academy.

35 (5) Minimum qualifications for instructors at approved law
 36 enforcement training schools.

37 (6) Minimum basic training requirements which law enforcement
 38 officers appointed to probationary terms shall complete before

being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), ~~and (l)~~, **and (n)**, a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;
 unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter*, or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to a gaming agent employed as a law enforcement officer by the Indiana gaming commission.
 Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a

1 minimum of sixteen (16) hours each year of inservice training in any
 2 subject area included in the law enforcement academy's basic training
 3 course or other job related subjects that are approved by the board as
 4 determined by the law enforcement department's or agency's needs.
 5 *Inservice training must include training in interacting with persons*
 6 *with mental illness, addictive disorders, mental retardation, and*
 7 *developmental disabilities, to be provided by persons approved by the*
 8 *secretary of family and social services and the law enforcement*
 9 *training board.* In addition, a certified academy staff may develop and
 10 make available inservice training programs on a regional or local basis.
 11 The board may approve courses offered by other public or private
 12 training entities, including colleges and universities, as necessary in
 13 order to ensure the availability of an adequate number of inservice
 14 training programs. The board may waive an officer's inservice training
 15 requirements if the board determines that the officer's reason for lacking
 16 the required amount of inservice training hours is due to any of the
 17 following:

18 (1) An emergency situation.

19 (2) The unavailability of courses.

20 (h) The board shall also adopt rules establishing a town marshal
 21 basic training program, subject to the following:

22 (1) The program must require fewer hours of instruction and class
 23 attendance and fewer courses of study than are required for the
 24 mandated basic training program.

25 (2) Certain parts of the course materials may be studied by a
 26 candidate at the candidate's home in order to fulfill requirements
 27 of the program.

28 (3) Law enforcement officers successfully completing the
 29 requirements of the program are eligible for appointment only in
 30 towns employing the town marshal system (IC 36-5-7) and having
 31 ~~no~~ **not** more than one (1) marshal and two (2) deputies.

32 (4) The limitation imposed by subdivision (3) does not apply to an
 33 officer who has successfully completed the mandated basic
 34 training program.

35 (5) The time limitations imposed by subsections (b) and (c) for
 36 completing the training are also applicable to the town marshal
 37 basic training program.

38 (i) The board shall adopt rules under IC 4-22-2 to establish a police

1 chief executive training program. The program must include training in
2 the following areas:

- 3 (1) Liability.
- 4 (2) Media relations.
- 5 (3) Accounting and administration.
- 6 (4) Discipline.
- 7 (5) Department policy making.
- 8 (6) Firearm policies.
- 9 (7) Department programs.

10 (j) A police chief shall apply for admission to the police chief
11 executive training program within two (2) months of the date the police
12 chief initially takes office. A police chief must successfully complete
13 the police chief executive training program within six (6) months of the
14 date the police chief initially takes office. However, if space in the
15 program is not available at a time that will allow the police chief to
16 complete the program within six (6) months of the date the police chief
17 initially takes office, the police chief must successfully complete the
18 next available program that is offered to the police chief after the police
19 chief initially takes office.

20 (k) A police chief who fails to comply with subsection (j) may not
21 serve as the police chief until the police chief has completed the police
22 chief executive training program. For the purposes of this subsection
23 and subsection (j), "police chief" refers to:

- 24 (1) the police chief of any city; and
- 25 (2) the police chief of any town having a metropolitan police
26 department.

27 A town marshal is not considered to be a police chief for these
28 purposes, but a town marshal may enroll in the police chief executive
29 training program.

30 (l) An investigator in the arson division of the office of the state fire
31 marshal appointed:

- 32 (1) before January 1, 1994, is not required; or
- 33 (2) after December 31, 1993, is required;

34 to comply with the basic training standards established under this
35 section.

36 (m) The board shall adopt rules under IC 4-22-2 to establish a
37 program to certify handgun safety courses, including courses offered in
38 the private sector, that meet standards approved by the board for

1 training probation officers in handgun safety as required by
2 IC 11-13-1-3.5(3).

3 **(n) This subsection applies only to a gaming agent employed as**
4 **a law enforcement officer by the Indiana gaming commission. A**
5 **gaming agent appointed after June 30, 2005, may exercise the**
6 **police powers described in subsection (d) if:**

7 **(1) the agent successfully completes the pre-basic course**
8 **established in subsection (f); and**

9 **(2) the agent successfully completes any other training courses**
10 **established by the Indiana gaming commission in conjunction**
11 **with the board.**

12 SECTION 9. IC 5-10-1.5-1 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Each retirement plan
14 for employees of the state or of a political subdivision shall report
15 annually on September 1 to the public employees' retirement fund the
16 information from the preceding fiscal year necessary for the actuary of
17 the fund to perform an actuarial valuation of each plan. Where the
18 director and actuary of the fund consider it appropriate, the actuary may
19 combine one (1) retirement plan with another or with the public
20 employees' retirement fund for the purposes of the actuarial valuation.
21 The retirement plans covered by this chapter are the following:

22 (1) The state excise police, **gaming agent**, and conservation
23 enforcement officers' retirement plan established under
24 IC 5-10-5.5.

25 (2) The "trust fund" and "pension trust" of the state police
26 department established under IC 10-12-2.

27 (3) Each of the police pension funds established or covered under
28 IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.

29 (4) Each of the firemen's pension funds established or covered
30 under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.

31 (5) Each of the retirement funds for utility employees authorized
32 under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.

33 (6) Each county police force pension trust and trust fund
34 authorized under IC 17-3-14 or IC 36-8.

35 (7) The Indiana judges' retirement fund established under
36 IC 33-38-6.

37 (8) Each retirement program adopted by a board of a local health
38 department as authorized under IC 16-1-4-25 (before its repeal) or

- 1 IC 16-20-1-3.
- 2 (9) Each retirement benefit program of a joint city-county health
- 3 department under IC 16-1-7-16 (before its repeal).
- 4 (10) Each pension and retirement plan adopted by the board of
- 5 trustees or governing body of a county hospital as authorized
- 6 under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.
- 7 (11) Each pension or retirement plan and program for hospital
- 8 personnel in certain city hospitals as authorized under
- 9 IC 16-12.2-5 (before its repeal) or IC 16-23-1.
- 10 (12) Each retirement program of the health and hospital
- 11 corporation of a county as authorized under IC 16-12-21-27
- 12 (before its repeal) or IC 16-22-8-34.
- 13 (13) Each pension plan provided by a city, town, or county
- 14 housing authority as authorized under IC 36-7.
- 15 (14) Each pension and retirement program adopted by a public
- 16 transportation corporation as authorized under IC 36-9.
- 17 (15) Each system of pensions and retirement benefits of a regional
- 18 transportation authority as authorized or required by IC 36-9.
- 19 (16) Each employee pension plan adopted by the board of an
- 20 airport authority under IC 8-22-3.
- 21 (17) The pension benefit paid for the national guard by the state
- 22 as established under IC 10-16-7.
- 23 (18) The pension fund allowed employees of the Wabash Valley
- 24 interstate commission as authorized under IC 13-5-1-3.
- 25 (19) Each system of pensions and retirement provided by a unit
- 26 under IC 36-1-3.
- 27 SECTION 10. IC 5-10-1.7-1 IS AMENDED TO READ AS
- 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The retirement
- 29 plans covered by this chapter are:
- 30 (1) The state excise police, **gaming agent**, and conservation
- 31 officers' retirement plan, established under IC 5-10-5.5.
- 32 (2) The public employees' retirement fund, established under
- 33 IC 5-10.3-2.
- 34 (3) The trust fund and pension trust of the department of state
- 35 police, established under IC 10-12-2.
- 36 (4) The Indiana state teachers' retirement fund, established under
- 37 IC 21-6.1-2.
- 38 (5) The Indiana judges' retirement fund, established under

1 IC 33-38-6.

2 (6) The police officers' and firefighters' pension and disability
3 fund established under IC 36-8-8-4.

4 (b) As used in this chapter:

5 "Board" means the board of trustees of a retirement plan covered by
6 this chapter.

7 SECTION 11. IC 5-10-5.5-1 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
9 chapter and unless the context clearly denotes otherwise:

10 (a) "Department" means the Indiana department of natural resources.

11 (b) "Commission" means the alcohol and tobacco commission.

12 (c) "Officer" means any Indiana state excise police officer, ~~or~~ any
13 Indiana state conservation enforcement officer, **or any gaming agent.**

14 (d) "Participant" means any officer who has elected to participate in
15 the retirement plan created by this chapter.

16 (e) "Salary" means the total compensation, exclusive of expense
17 allowances, paid to any officer by the department or the commission,
18 determined without regard to any salary reduction agreement
19 established under Section 125 of the Internal Revenue Code.

20 (f) "Average annual salary" means the average annual salary of an
21 officer during the five (5) years of highest annual salary in the ten (10)
22 years immediately preceding an officer's retirement date, determined
23 without regard to any salary reduction agreement established under
24 Section 125 of the Internal Revenue Code.

25 (g) "Public employees' retirement act" means IC 5-10.3.

26 (h) "Public employees' retirement fund" means the public
27 employees' retirement fund created by IC 5-10.3-2.

28 (i) "Interest" means the same rate of interest as is specified under the
29 public employees' retirement law.

30 (j) "Americans with Disabilities Act" refers to the Americans with
31 Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and
32 regulations related to the Act.

33 (k) Other words and phrases when used in this chapter shall, for the
34 purposes of this chapter, have the meanings respectively ascribed to
35 them as set forth in IC 5-10.3-1.

36 SECTION 12. IC 5-10-5.5-2 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. There is hereby
38 created a state excise police, **gaming agent**, and conservation

1 enforcement officers' retirement plan to establish a means of providing
 2 special retirement, disability and survivor benefits to employees of the
 3 department, **the Indiana gaming commission**, and the commission
 4 who are engaged exclusively in the performance of law enforcement
 5 duties.

6 SECTION 13. IC 5-10-5.5-2.5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) As used in this
 8 chapter, "Internal Revenue Code":

9 (1) means the Internal Revenue Code of 1954, as in effect on
 10 September 1, 1974, if permitted with respect to governmental
 11 plans; or

12 (2) to the extent not inconsistent with subdivision (1), has the
 13 meaning set forth in IC 6-3-1-11.

14 (b) The state excise police, **gaming agent**, and conservation officers'
 15 retirement plan shall satisfy the qualification requirements in Section
 16 401 of the Internal Revenue Code, as applicable to the retirement plan.
 17 In order to meet those requirements, the retirement plan is subject to the
 18 following provisions, notwithstanding any other provision of this
 19 chapter:

20 (1) The board shall distribute the corpus and income of the
 21 retirement plan to participants and their beneficiaries in
 22 accordance with this chapter.

23 (2) No part of the corpus or income of the retirement plan may be
 24 used or diverted to any purpose other than the exclusive benefit of
 25 the participants and their beneficiaries.

26 (3) Forfeitures arising from severance of employment, death, or
 27 for any other reason may not be applied to increase the benefits
 28 any participant would otherwise receive under this chapter.

29 (4) If the retirement plan is terminated, or if all contributions to
 30 the retirement plan are completely discontinued, the rights of each
 31 affected participant to the benefits accrued at the date of the
 32 termination or discontinuance, to the extent then funded, are
 33 nonforfeitable.

34 (5) All benefits paid from the retirement plan shall be distributed
 35 in accordance with the requirements of Section 401(a)(9) of the
 36 Internal Revenue Code and the regulations under that section. In
 37 order to meet those requirements, the retirement plan is subject to
 38 the following provisions:

- 1 (A) The life expectancy of a participant, the participant's
 2 spouse, or the participant's beneficiary shall not be recalculated
 3 after the initial determination, for purposes of determining
 4 benefits.
- 5 (B) If a participant dies before the distribution of the
 6 participant's benefits has begun, distributions to beneficiaries
 7 must begin no later than December 31 of the calendar year
 8 immediately following the calendar year in which the
 9 participant died.
- 10 (C) The amount of an annuity paid to a participant's
 11 beneficiary may not exceed the maximum determined under
 12 the incidental death benefit requirement of the Internal
 13 Revenue Code.
- 14 (6) The board may not:
- 15 (A) determine eligibility for benefits;
- 16 (B) compute rates of contribution; or
- 17 (C) compute benefits of participants or beneficiaries;
- 18 in a manner that discriminates in favor of participants who are
 19 considered officers, supervisors, or highly compensated, as
 20 prohibited under Section 401(a)(4) of the Internal Revenue Code.
- 21 (7) Benefits paid under this chapter may not exceed the maximum
 22 benefit specified by Section 415 of the Internal Revenue Code.
- 23 (8) The salary taken into account under this chapter may not
 24 exceed the applicable amount under Section 401(a)(17) of the
 25 Internal Revenue Code.
- 26 (9) The board may not engage in a transaction prohibited by
 27 Section 503(b) of the Internal Revenue Code.
- 28 SECTION 14. IC 5-10-5.5-3.5 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. The state excise
 30 police, **gaming agent**, and conservation enforcement officers'
 31 retirement plan shall be administered in a manner that is consistent with
 32 the Americans with Disabilities Act, to the extent required by the Act.
- 33 SECTION 15. IC 5-10-8-6 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The state police
 35 department, conservation officers of the department of natural
 36 resources, **gaming agents of the Indiana gaming commission**, and the
 37 state excise police may establish common and unified plans of
 38 self-insurance for their employees, including retired employees, as

1 separate entities of state government. These plans may be administered
 2 by a private agency, business firm, limited liability company, or
 3 corporation.

4 (b) The state agencies listed in subsection (a) may not pay as the
 5 employer portion of benefits for any employee or retiree an amount
 6 greater than that paid for other state employees for group insurance.

7 SECTION 16. IC 5-10-10-4 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. As used in this
 9 chapter, "public safety officer" means any of the following:

- 10 (1) A state police officer.
- 11 (2) A county sheriff.
- 12 (3) A county police officer.
- 13 (4) A correctional officer.
- 14 (5) An excise police officer.
- 15 (6) A county police reserve officer.
- 16 (7) A city police reserve officer.
- 17 (8) A conservation enforcement officer.
- 18 (9) A town marshal.
- 19 (10) A deputy town marshal.
- 20 (11) A probation officer.
- 21 (12) A state university police officer appointed under
- 22 IC 20-12-3.5.
- 23 (13) An emergency medical services provider (as defined in
- 24 IC 16-41-10-1) who is:
- 25 (A) employed by a political subdivision (as defined in
- 26 IC 36-1-2-13); and
- 27 (B) not eligible for a special death benefit under IC 36-8-6-20,
- 28 IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.
- 29 (14) A firefighter who is employed by the fire department of a
- 30 state university.

31 **(15) A gaming agent of the Indiana gaming commission.**

32 SECTION 17. IC 5-14-3-2 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this
 34 chapter:

35 "Copy" includes transcribing by handwriting, photocopying,
 36 xerography, duplicating machine, duplicating electronically stored data
 37 onto a disk, tape, drum, or any other medium of electronic data storage,
 38 and reproducing by any other means.

1 "Direct cost" means one hundred five percent (105%) of the sum of
2 the cost of:

- 3 (1) the initial development of a program, if any;
 - 4 (2) the labor required to retrieve electronically stored data; and
 - 5 (3) any medium used for electronic output;
- 6 for providing a duplicate of electronically stored data onto a disk, tape,
7 drum, or other medium of electronic data retrieval under section 8(g) of
8 this chapter, or for reprogramming a computer system under section
9 6(c) of this chapter.

10 "Electronic map" means copyrighted data provided by a public
11 agency from an electronic geographic information system.

12 "Enhanced access" means the inspection of a public record by a
13 person other than a governmental entity and that:

- 14 (1) is by means of an electronic device other than an electronic
15 device provided by a public agency in the office of the public
16 agency; or
- 17 (2) requires the compilation or creation of a list or report that does
18 not result in the permanent electronic storage of the information.

19 "Facsimile machine" means a machine that electronically transmits
20 exact images through connection with a telephone network.

21 "Inspect" includes the right to do the following:

- 22 (1) Manually transcribe and make notes, abstracts, or memoranda.
- 23 (2) In the case of tape recordings or other aural public records, to
24 listen and manually transcribe or duplicate, or make notes,
25 abstracts, or other memoranda from them.
- 26 (3) In the case of public records available:
 - 27 (A) by enhanced access under section 3.5 of this chapter; or
 - 28 (B) to a governmental entity under section 3(c)(2) of this
29 chapter;

30 to examine and copy the public records by use of an electronic
31 device.

- 32 (4) In the case of electronically stored data, to manually transcribe
33 and make notes, abstracts, or memoranda or to duplicate the data
34 onto a disk, tape, drum, or any other medium of electronic storage.

35 "Investigatory record" means information compiled in the course of
36 the investigation of a crime.

37 "Patient" has the meaning set out in IC 16-18-2-272(d).

38 "Person" means an individual, a corporation, a limited liability

1 company, a partnership, an unincorporated association, or a
2 governmental entity.

3 "Provider" has the meaning set out in IC 16-18-2-295(a) and
4 includes employees of the state department of health or local boards of
5 health who create patient records at the request of another provider or
6 who are social workers and create records concerning the family
7 background of children who may need assistance.

8 "Public agency" means the following:

9 (1) Any board, commission, department, division, bureau,
10 committee, agency, office, instrumentality, or authority, by
11 whatever name designated, exercising any part of the executive,
12 administrative, judicial, or legislative power of the state.

13 (2) Any:

14 (A) county, township, school corporation, city, or town, or any
15 board, commission, department, division, bureau, committee,
16 office, instrumentality, or authority of any county, township,
17 school corporation, city, or town;

18 (B) political subdivision (as defined by IC 36-1-2-13); or

19 (C) other entity, or any office thereof, by whatever name
20 designated, exercising in a limited geographical area the
21 executive, administrative, judicial, or legislative power of the
22 state or a delegated local governmental power.

23 (3) Any entity or office that is subject to:

24 (A) budget review by either the department of local
25 government finance or the governing body of a county, city,
26 town, township, or school corporation; or

27 (B) an audit by the state board of accounts.

28 (4) Any building corporation of a political subdivision that issues
29 bonds for the purpose of constructing public facilities.

30 (5) Any advisory commission, committee, or body created by
31 statute, ordinance, or executive order to advise the governing
32 body of a public agency, except medical staffs or the committees
33 of any such staff.

34 (6) Any law enforcement agency, which means an agency or a
35 department of any level of government that engages in the
36 investigation, apprehension, arrest, or prosecution of alleged
37 criminal offenders, such as the state police department, the police
38 or sheriff's department of a political subdivision, prosecuting

attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, **gaming agents of the Indiana gaming commission**, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 18. IC 35-47-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "public safety officer" means:

- 1 (1) a state police officer;
- 2 (2) a county sheriff;
- 3 (3) a county police officer;
- 4 (4) a correctional officer;
- 5 (5) an excise police officer;
- 6 (6) a county police reserve officer;
- 7 (7) a city police officer;
- 8 (8) a city police reserve officer;
- 9 (9) a conservation enforcement officer;
- 10 **(10) a gaming agent;**
- 11 ~~(10)~~ **(11)** a town marshal;
- 12 ~~(11)~~ **(12)** a deputy town marshal;
- 13 ~~(12)~~ **(13)** a state university police officer appointed under
- 14 IC 20-12-3.5;
- 15 ~~(13)~~ **(14)** a probation officer;
- 16 ~~(14)~~ **(15)** a firefighter (as defined in IC 9-18-34-1);
- 17 ~~(15)~~ **(16)** an emergency medical technician; or
- 18 ~~(16)~~ **(17)** a paramedic.

19 SECTION 19. IC 36-7-11.5-3 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An
 21 ordinance establishing an interlocal agreement under section 2 of this
 22 chapter:

- 23 (1) must provide for the establishment of a historic hotel
- 24 preservation commission in the same manner as IC 36-7-11;
- 25 (2) shall specify which powers under IC 36-7-11 the commission
- 26 may exercise in administering the historic hotel district; and
- 27 (3) may not conflict with a requirement of this chapter.

28 If any provision in IC 36-7-11 conflicts with this chapter, the provisions
 29 of this chapter control.

30 (b) The ordinance must provide for the following membership on the
 31 historic hotel preservation commission:

- 32 (1) An individual appointed by the legislative body of the county
- 33 in which the towns are located.
- 34 ~~(2) An individual appointed by the convention and visitor's bureau~~
- 35 ~~of the county in which the towns are located.~~
- 36 **(2) An individual appointed by the executive body of the**
- 37 **county in which the towns are located.**
- 38 (3) An individual appointed by the town council of a town

- 1 meeting the criteria set forth in section 2(a)(1) of this chapter.
- 2 (4) An individual appointed by the town council of a town
- 3 meeting the criteria set forth in section 2(a)(2) of this chapter.
- 4 (5) An individual appointed by the Historic Landmarks
- 5 Foundation of Indiana.
- 6 **(6) An individual appointed by the town council of a town**
- 7 **described in IC 4-33-12-6(c)(1)(C)(i).**
- 8 **(7) An individual appointed by the town council of a town**
- 9 **described in IC 4-33-12-6(c)(1)(C)(ii).**
- 10 ~~(6)~~ **(8)** The owner of a qualified historic hotel or the owner's
- 11 designee.
- 12 ~~(7)~~ **(9)** The owner of a historic hotel located in a town meeting the
- 13 criteria set forth in section 2(a)(2) of this chapter or the owner's
- 14 designee.
- 15 ~~(8)~~ **(10)** A nonvoting member appointed by the governor.
- 16 (c) The members described in subsection (b)(1) through ~~(b)(5)~~ **(b)(7)**
- 17 shall each serve for a term of three (3) years. However, the terms of the
- 18 original voting members may be for one (1) year, two (2) years, or three
- 19 (3) years in order for the terms to be staggered, as provided by the
- 20 ordinance. A vacancy shall be filled for the duration of the term by the
- 21 original appointing authority.
- 22 (d) The ordinance may provide qualifications for members of the
- 23 commission described in subsection (b)(1) through ~~(b)(4)~~ **(b)(7)**. In
- 24 addition: ~~the members~~
- 25 **(1) a member** appointed under subsection (b)(1) through ~~(b)(4)~~ **or**
- 26 **(b)(2)** must be ~~residents~~ **a resident** of the county who ~~are~~ **is**
- 27 interested in the preservation and development of historic areas;
- 28 **and**
- 29 **(2) a member appointed under subsection (b)(3), (b)(4), (b)(6),**
- 30 **or (b)(7) must:**
- 31 **(A) be a resident of the town that appoints the member;**
- 32 **and**
- 33 **(B) be interested in the preservation and development of**
- 34 **historic areas.**
- 35 The commission should include professionals in the tourism industry
- 36 and professionals in the disciplines of architectural history, planning,
- 37 and other disciplines related to historic preservation, to the extent that
- 38 those professionals are available in the community. The ordinance may

1 also provide for the appointment of advisory members that the
2 legislative body considers appropriate.

3 (e) Each member of the commission must, before beginning the
4 discharge of the duties of the member's office, do the following:

5 (1) Take an oath that the member will faithfully execute the duties
6 of the member's office according to Indiana law and rules adopted
7 under Indiana law.

8 (2) Provide a bond to the state that:

9 (A) is for twenty-five thousand dollars (\$25,000); and

10 (B) is, after being executed and approved, recorded in the
11 office of the secretary of state.

12 (f) A member of the commission is not entitled to a salary per diem
13 or reimbursement for traveling expenses or other expenses incurred in
14 connection with the member's duties.

15 SECTION 20. IC 36-7-11.5-5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The
17 commission shall elect from its membership a chairperson and vice
18 chairperson, who shall serve for one (1) year and may be reelected.

19 (b) The commission shall adopt rules consistent with this chapter for
20 the transaction of its business. The rules must include the time and
21 place of regular meetings and a procedure for the calling of special
22 meetings. ~~Four (4)~~ **Five (5)** voting members constitute a quorum of the
23 commission. No action may be taken by the commission unless a
24 majority of the voting members appointed to the commission vote in
25 favor of taking the action.

26 (c) All meetings of the commission must be open to the public, and
27 a public record of the commission's resolutions, proceedings, and
28 actions must be kept.

29 (d) If the commission has an administrator, the administrator shall
30 act as the commission's secretary. If the commission does not have an
31 administrator, the commission shall elect a secretary from its
32 membership.

33 (e) The commission shall hold regular meetings, at least monthly,
34 except when it has no business pending.

35 SECTION 21. IC 36-7-11.5-7 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as
37 otherwise specified in this chapter, the commission has all of the
38 powers and responsibilities of a historic preservation commission

1 established under IC 36-7-11.

2 (b) The commission shall do the following:

3 (1) Designate a fiscal agent who must be the fiscal officer of one

4 (1) of the towns to which this chapter applies.

5 (2) Employ professional staff necessary to assist the commission
6 in carrying out its duties.

7 (3) Engage consultants, attorneys, accountants, and other
8 professionals necessary to carry out the commission's duties. **The**
9 **commission may not engage more than one (1) attorney or**
10 **firm of attorneys.**

11 (4) Jointly approve, with the Indiana gaming commission, the
12 location and exterior design of a riverboat to be operated in the
13 historic hotel district.

14 (5) Make recommendations to the Indiana gaming commission
15 concerning the selection of an operating agent (as defined in
16 IC 4-33-2-14.5) that the commission believes will:

17 (A) promote the most economic development in the area
18 surrounding the historic hotel district; and

19 (B) best serve the interests of the residents of the county in
20 which the historic hotel district is located and all other citizens
21 of Indiana.

22 (6) Make recommendations to the Indiana gaming commission
23 concerning the operation and management of the riverboat to be
24 operated in the county.

25 (c) This section does not limit the powers of the Indiana gaming
26 commission with respect to the administration and regulation of
27 riverboat gaming under IC 4-33.

28 SECTION 22. [EFFECTIVE UPON PASSAGE] (a)
29 **Notwithstanding IC 4-33-3-2, as amended by this act, a member of**
30 **the Indiana gaming commission who was appointed before the**
31 **effective date of this act may continue to serve until the member's**
32 **term expires.**

33 (b) **This SECTION expires July 1, 2008.**

34 SECTION 23. [EFFECTIVE UPON PASSAGE] (a)
35 **Notwithstanding IC 36-11-7.5-3(c), as amended by this act, the**
36 **terms of members currently serving on the commission expire upon**
37 **passage of this act.**

38 (b) **The initial terms of the members appointed under**

- 1 **IC 36-7-11.5-3, as amended by this act, may be for one (1) year, two**
- 2 **(2) years, or three (3) years, as provided by ordinance.**
- 3 **(c) This SECTION expires January 1, 2006."**
- 4 **SECTION 24. An emergency is declared for this act."**
- 5 Renumber all SECTIONS consecutively.
 (Reference is to SB 626 as reprinted February 18, 2005.)

and when so amended that said bill do pass.

Representative Alderman